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Erik S. Mroz  
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965909

April 30, 2021

**VIA ELECTRONIC MAIL**

Nicole Wood-Chi  
U.S. EPA, Region 5  
Superfund Division Remedial Response  
Branch 2  
Remedial Response Section 3 SR-6J  
77 W. Jackson Boulevard  
Chicago, Illinois 60604-35909  
[wood.nicole@epa.gov](mailto:wood.nicole@epa.gov)

**RE: William and Teresa Gedig's Good Faith Settlement Offer and Response to  
U.S. November 24, 2020 Special Notice of Liability for the Franklin Street  
Groundwater NPL Site (EPA ID #INN000510959)**

Dear Ms. Wood-Chi:

My office was retained to represent William and Teresa Gedig (the "Gedigs") in connection with the Franklin Street Groundwater NPL Site (the "Site") located in Spencer, Indiana. Please accept the following as: (1) the Gedig's Good Faith Settlement Offer and Response to the November 24, 2020 Special Notice of Liability; and, (2) a follow up to the April 8, 2021 telephone conference between us, Mr. Novak, and counsel for Stello Produces ("Stello") and the Victoria Comte Revocable Trust ("Comte). As indicated during the telephone conference, the Gedigs, Stello, and Comte have informally agreed to work cooperatively with each other and the EPA in investigating their individual properties but are unwilling at this time to form a PRP Group to develop and implement a Remedial Investigation / Feasibility Study ("RI/FS") for the entire Site. Additional information is needed at this time before any of the three parties can commit resources to such an undertaking. I understand that counsel for Stello and Comte are submitting separate responses to EPA but with similar good faith settlement offers.

**BACKGROUND**

There is insufficient evidence establishing the Gedigs' liability for groundwater contamination at the Site or for the tetrachloroethylene ("PCE") impacts identified at the BBP Water Corporation ("BBP") wellfield located approximately 0.5-mile south of the Gedigs' property. The Gedigs acquired the property in the mid-1990s. At the time, the property was used as a coin-operated laundromat. The property has since been used only as a coin-operated

laundromat and tanning facility. As set forth in the Gedigs' April 21, 2019 response to EPA's Request for Information, on-site operations during the Gedigs' ownership have not included the purchase, use, or storage of PCE. The Gedigs have subsequently learned that a previous owner, Mr. Richard Dyar, installed and operated a single self-contained and coin-operated PCE dry-cleaning machine at the property during some period between 1962 and 1973. The actual dates of operation are unknown and the undersigned directs EPA's attention to Mr. Dyar's May 6, 2019 response to EPA's Request for Information.

On November 23, 2015, the Indiana Department of Environmental Management ("IDEM") issued a *Site Inspection Report* that included the results of soil and groundwater samples collected at the Gedigs' property. No volatile organic compounds ("VOC") were detected in the soil sample (E2TH3/SS8) collected at the Gedigs' property. A grab groundwater sample (E2TJ0/GW12) from the boring indicated the presence of PCE at 5.7 µg/L, which is only slightly above the federal maximum contaminant level ("MCL") of 5 µg/L. Subsequent sampling of existing monitoring wells located across W. Morgan Street (Crystal Flash / Circle K – 404 W. Morgan Street) indicated PCE concentrations at 1.7 µg/L (E2W70/GW22) and non-detect at (E2W71/GW23). Additional groundwater sampling between the Gedigs' property and the BBP wellfield were also non-detect for PCE (E2TG7/MW4, E2TH2/GW6, and E2W76/GW24). Nevertheless, the Gedigs are willing to cooperate with the EPA and the other cooperating respondents by making the following good faith offer.

### **GOOD FAITH OFFER**

The Special Notice Letter dictated seven items that must be addressed in a good faith offer. The following is a discussion of those seven items.

- 1. A statement of willingness by the Gedigs to conduct or finance the RI/FS that is consistent with EPA's Statement of Work and Administrative Order on Consent and provides a sufficient basis for future negotiations.**

Based on the information summarized above, there is no evidence establishing a nexus between the Gedigs' property and the contamination found in the Site groundwater or the BBP wellfield. Accordingly, the Gedigs are not in a position to conduct or finance an RI/FS concerning the Site. If additional information establishes that such a nexus exists, the Gedigs may consider a mutually acceptable RI/FS administrative order on consent ("AOC") with the EPA and any other cooperating respondents. That said, consistent with our discussions on April 8, 2021, the Gedigs, through their insurers<sup>1</sup>, are willing and able to finance and conduct an initial site assessment to identify the potential for environmental impacts at or originating from the Gedigs' property.

The Gedigs have engaged with Keramida, a qualified environmental consulting firm, to prepare an initial site investigation scope of work for EPA's consideration. The Keramida scope of work is attached hereto as Exhibit "A." The proposed work will benefit all parties' understanding of the Gedigs' property and of the larger NPL Site generally. We look forward to

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<sup>1</sup> Identified hereinbelow.

comments from EPA concerning the scope of work. Additionally, the Gedigs are interested in exploring whether the EPA is willing to enter into an interim AOC to conduct the initial site assessment work. An interim AOC could potentially include other parties, if appropriate. It is the Gedigs' intent to work cooperatively with the other respondents, including the coordination of sampling times and depths. In any event, we respectfully request that the EPA not take any further enforcement action against the Gedigs while the proposed work is being considered and implemented.

**2. A paragraph-by-paragraph response to EPA's Statement of Work and draft Administrative Settlement Agreement and RI/FS AOC.**

As stated above, the Gedigs do not believe that the current evidence establishes their liability for the contamination identified at the Site or the BBP wellfield. A paragraph-by-paragraph response to EPA's Statement of Work and RI/FS AOC is premature at this time.

As we discussed during our April 8, 2021 call, the Gedigs respectfully decline to execute the RI/FS AOC for the reasons set forth above. It is more appropriate for the Gedigs to negotiate an interim AOC for the initial site assessment and work towards a better understanding of the Gedig property and any associated impacts. Based on our April 8, 2021 call, I understand that EPA also shares our concerns about the current lack of data and the lack of an identified source of PCE at the Site. The work proposed by Keramida will help the EPA, the parties, and the public get a clearer understanding of the Site.

**3. A detailed description of the work plan identifying how the Gedigs plan to proceed with the work.**

Consistent with both the foregoing and the attached scope of work, the Gedigs intend to proceed with the following:

- Development of a Phase I Environmental Site Assessment under the guidance of the American Society for Testing and Materials standard ASTM E 1527-13.
- Off-site groundwater sampling at up to four (4) existing groundwater monitoring wells associated with the former Crystal Flash / Circle K property (404 W. Morgan Street), which are located between the Gedigs' property and the BBP wellfield and in the anticipated downgradient flow direction: MW-5, MW-13, MW-16, and MW-25. The locations of the monitoring wells are depicted on a map attached as Exhibit "B."
- A private utility survey, including a ground-penetrating radar survey to identify the location(s) of subgrade piping and utilities.
- Placement of a total of four (4) new soil borings at and near the Gedigs' property. Three of the borings will be placed on the Gedigs' property. Two will be placed adjacent to the south end of the building facing W. Morgan Street.

One will be placed to the north / northeast of the building in an existing right of way. One will be placed at the south / southeast end of the Gedigs' parking lot. Soil samples are to be continuously sampled for VOCs in five-foot increments to a depth of 20 feet below grade. The boring locations are depicted on Figure 1 of the Keramida scope of work: PMW-1, PMW-2, PMW-3, and PMW-4.

- After collection of soil samples, all four (4) borings will be blank drilled to a maximum of 20 feet to a termination depth of 5 feet into the first observed groundwater unit. Upon achieving the desired depths, the borings will be converted to permanent monitoring wells. Groundwater samples will then be collected after a minimum of 48 hours to allow for stabilization.
- Up to three (3) deep monitoring wells (~100 feet) may be installed at the property to evaluate the potential presence of VOCs at the soil / bedrock interface.
- If deemed necessary, up to eight (8) passive soil gas samples will be taken from the perimeter of the building and include utility corridors to evaluate the presence of VOCs in unsaturated soil. An additional six (6) soil gas sample points will be installed below the building slab to characterize VOC vapors potentially present below the slab.

Consistent with the attached Keramida scope of work, a Sampling and Analysis Plan (SAP), Quality Assurance Project Plan (QAPP), and Health and Safety Plan (HASP) will be prepared as part of the work.

**4. A demonstration of the Gedigs' technical capability to carry out the RI/FS, including the identification of the firm(s) that may actually conduct the work or a description of the process they will use to select the firm(s).**

The Gedigs have engaged with Keramida to carry out the initial site investigation at the Gedigs' property. Please see a discussion of Keramidas's capabilities at <http://www.keramida.com>.

**5. A demonstration of the Gedigs' capability to finance the RI/FS.**

The Gedigs are currently being defended in this matter by State Auto Insurance Companies and Liberty Mutual Insurance Company. The insurers are both defending without a reservation under certain policy years and defending with a reservation of rights under certain other policy years. Please contact the undersigned if you would like additional information. The estimated costs associated with the attached Keramida scope of work have been approved and we are authorized to proceed subject to additional input from the EPA.

**6. A statement of willingness by the Gedigs to reimburse EPA for costs incurred in overseeing the conduct of the RI/FS.**

Given the lack of evidence connecting the Gedigs to the Site, the Gedigs are unwilling at this time to reimburse EPA for the costs incurred in overseeing the conduct of a Site-wide RI/FS. Furthermore, given the total number of respondents identified by EPA, there should be, at minimum, a current focus by EPA on the non-cooperating respondents and on each parties' potential exposure to liability, if any, concerning the Site. That said, the Gedigs are willing to discuss this matter with the EPA and the other respondents at some future point to see if a mutually acceptable share can be determined based on the principles of apportionment and/or allocation pursuant to 42 U.S.C. §§ 9607, 9613, as appropriate. *See Burlington Northern and Santa Fe Ry. Co. v. U.S.*, 556 U.S. 599 (2009).

**7. The name, address, and phone number of the party who will represent the Gedigs in negotiations.**

Erik S. Mroz  
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Drewry Simmons Vornehm, LLP  
736 Hanover Place, Suite 200  
Carmel, Indiana 46033  
(317) 580-4848  
[emroz@dsvlaw.com](mailto:emroz@dsvlaw.com)  
[atrueblood@dsvlaw.com](mailto:atrueblood@dsvlaw.com)

I trust the foregoing satisfies EPA's requirements for a good faith offer. At your convenience, please advise how EPA wishes to proceed. I can be reached at (317) 580-4848 to answer any questions that you or your technical staff may have.

Very truly yours,

DREWRY SIMMONS VORNEHM, LLP



Erik S. Mroz

Enclosures (2)

**EXHIBIT “A”**

April 27, 2021

Spencer Coin Op Ventures  
c/o Erik Mroz  
Drewry Simmons Vornehm, LLP  
736 Hanover Place, Suite 200  
Carmel, IN 46032  
(317) 580-4848 - [emroz@dsvlaw.com](mailto:emroz@dsvlaw.com)

Re: Initial Site Investigation – Scope of Work  
Spencer Coin OP Ventures  
401 West Morgan Street, Spencer, IN 46217

Dear Mr. Mroz:

KERAMIDA Inc. (KERAMIDA) is pleased to submit this Scope of Work (SOW) for an Initial Site Investigation at the Coin OP Ventures property located at 401 West Morgan Street, Spencer, IN 46217 (Site). Results from a previously completed subsurface investigation at the Site, completed by the Indiana Department of Environmental Management (IDEM), resulted in a detection of tetrachloroethylene (PCE) in groundwater above the IDEM Remediation Closure Guide (RCG) screening criteria. In cooperation with the United States Environmental Protection Agency (US EPA), a Hazard Ranking System (HRS) document was issued that assigned values and discussed potential sources of PCE contamination that have migrated to the BBP Water Corporation (BBP) municipal water supply wells. Based on the findings of that investigation effort, the Site was identified as a potential contributing source of PCE in the BBP wells.

### **SCOPE OF WORK**

A Phase I Environmental Site Assessment (Phase I ESA) will be performed for this project. The Phase I Scope of Work will follow the scope and limitations of the American Society for Testing and Materials guidelines, ASTM E 1527-13, which was developed to comply with the All-Appropriate Inquiry requirements of 40 CFR 312.

The purpose of the Phase I ESA is to identify any environmental conditions and potential areas of environmental concern at the property as a result of historical operations and/or current or historical operations on adjacent and/or nearby properties. Specifically, the Phase I ESA will identify recognized environmental conditions as defined in ASTM E 1527-13.

#### **The Phase I will include the following:**

- Through a search by a national database company, a review of regulatory information – local, state, and federal environmental records of the Sites and surrounding properties, relating to past and current operations that could be expected to impact the Site;
- Review of the environmental records available with the IDEM will be made, regarding the information on file for the Site and pertinent surrounding properties;

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- Analysis of selected available historical resources to supplement the past ownership/use information provided by the client, which may include aerial photographs; Sanborn Fire Insurance maps; and/or topographic maps of the area to determine past uses of the Site and surrounding properties to the extent that these historical resources document such uses;
- Once authorized, interview of owners, employees, local officials, and other reasonably identified persons with knowledge about the Site (if identified and available) will be solicited;
- Through a title search or other means provided by the Client, review of title or judicial records for environmental liens (ELs) or activity and use limitations (AULs), including environmental liens, environmental deed restrictions, institutional controls, and engineering controls will be completed; and
- Completion of an on-Site visit to inspect the property and the immediate surroundings for visible signs of possible environmental concerns.

KERAMIDA will perform a Site Investigation at the Site to characterize subsurface conditions at the Site as it relates to potential chlorinated VOCs beneath the property.

**The Site Investigation will include the following:**

- KERAMIDA will contact the surrounding properties (Town of Spencer and Babbs Supervalu) to obtain easement access and submit required permit applications to the Town of Spencer for street cuts and well installations. Additionally, Crystal Flash Petroleum Corporation will be contacted to request access for the collection of groundwater samples from select existing wells on the 404 West Morgan St., Spencer, Indiana property (Circle K).
- Prior to subsurface investigation activities, both public and private utility locates will be completed. The private locate will include a ground-penetrating radar (GPR) survey to identify the location of any subgrade piping/utilities, clear boring locations, and to identify locations of any subsurface anomalies. A qualified subcontractor (GPRS) will be employed to perform the geophysical survey and will provide oversight and guidance during the performance of the survey. The marked utilities will be incorporated into the Sampling and Analysis Plan (SAP) and Health & Safety Plans (HASP) as needed prior to initiating subsurface work. The SAP will include soil sampling protocols, groundwater low-flow sampling protocols, soil gas/sub slab sample collection protocols, Quality Assurance/Quality Control (QA/QC) expectations, event(s) frequency, field parameters to be measured, waste management, and reporting expectations to be utilized during the assessment phase of the project.
- Four soil borings will be advanced at the Site utilizing Dual Tube™ sampling technology (Figure 1). Boring locations have been estimated based on the property boundaries, cursory utility location assessment, and drill rig clearances. The borings will be continuously sampled in five-foot increments to a depth of 20 feet below grade (bg) to obtain soil samples for soil texture identification, depth to the water table, field screening, and soil sampling. The screening consists of visual observations and the utilization of a flame ionization detector (FID) for the detection of organic vapors. A soil sample will be collected from the 0 to 10 feet depth interval and from above the saturated zone in each boring.
- Soil samples will be analyzed for volatile organic compounds (VOCs) in accordance with US EPA SW-846 Method 8260B with collection method 5035A. QA/QC samples will be collected and analyzed in general accordance with IDEM protocols as detailed in the SAP.



- At the completion of soil sampling, borings will be blank drilled to a maximum of 20 feet bg using hollow stem auger (HSA) drilling technology to terminations depths of 5 feet into the first observed groundwater unit. A 2-inch polyvinyl chloride (PVC) monitoring well fitted with a 10-foot slotted well screen from the bottom will be installed in each boring. The wells will be completed in general accordance with the Indiana Department of Natural Resources (IDNR) monitoring well regulations and IDEM guidance. A flush mount cover with manhole will be installed at the surface. Following completion each well will be developed and prepared for sampling.
- After allowing a minimum of 48 hours for the wells to stabilize, depth to groundwater measurements and groundwater samples will be collected. This effort is anticipated to include select wells located at the Circle K property south of the Site assuming that access has been granted. Representative groundwater samples utilizing low flow techniques will be collected in general accordance with IDEM micro-purge guidelines. The samples will be logged on a chain-of-custody form and submitted to Pace Analytical Services in Indianapolis, Indiana for laboratory analyses of VOCs. Details of sampling techniques will be provided prior to the event in the SAP.
- Contingent on the discovery of elevated shallow VOC concentrations, three deep monitoring wells to the bedrock surface will be installed at the Site to evaluate groundwater quality at the soil / bedrock interface. The bedrock wells are anticipated to be completed to a depth of 100 feet bg utilizing Rotasonic drilling technology. The depth to the bedrock surface has been estimated based on a cursory evaluation of available wells in the vicinity of the Site. The borings will be continuously logged and screened as described above. Two-inch PVC monitoring wells equipped with a 10-foot slotted well screen will be installed from the termination depth of each boring. The wells will be completed with flush mount covers and developed in general accordance with IDNR regulations and IDEM guidance. The proposed locations of the bedrock wells will be to install them adjacent to the shallow well locations MW-1, MW-2, and MW-4 (Figure 1). However, the final locations of the bedrock monitoring locations may be further evaluated as additional subsurface data is collected.
- Monitoring well locations and elevations will be professionally surveyed following the completion of installation.
- If deemed necessary, up to eight BeSure Sample Collection Kits™ (Beacon Environmental) will be utilized to collect passive soil gas (PSG) samples from the perimeter of the Site's structures including utility corridors to evaluate the presence of VOCs in the unsaturated soil atmosphere. In addition, six soil gas sample points will be installed inside the building to collect sub slab vapor samples to characterize VOC vapor beneath the slab of the building. Details of sampling techniques and locations will be provided prior to the event in a SAP update.
- Once analytical results have been received and the data packages reviewed, KERAMIDA will prepare a draft report documenting the SI activities. The report will include maps, description of field activities, discussion of the analytical results, and conclusions. Additionally, the laboratory data package (Level IV) and other pertinent information will be included.
- Investigation derived waste such as drill cuttings and decontamination water will be placed in clean, DOT-rated, 55-gallon drum(s). The drums will be staged at the Site until disposal arrangements are made at a licensed treatment and disposal facility for a period of less than 90 days. The drum(s) will be labeled and clearly marked with secondary containment measures as deem appropriate. All waste is assumed to be nonhazardous and able to be disposed of at a subtitle D landfill.

## SCHEDULE

KERAMIDA can initiate the work scope immediately following authorization. Initially KERAMIDA will contact Mr. Mroz and schedule the Site walk. The Site walk is estimated at a half-day not including travel to and from the Site. The subsurface investigation schedule will be based on contractor availability with the pending start date approved by notification to and from the Client and counsel.

## PROJECT TEAM

Project efforts will be led by Mr. John Schilling, LPG, with quality control oversight provided by Mr. Brian Harrington. Additional professional staff will be incorporated as needed to complete the scope of work. Mr. Schilling will be the lead geologist and project manager. The resume for Mr. Schilling is included as an attachment.

## ASSUMPTIONS

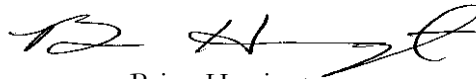
Certain assumptions were made in preparing the cost estimates for the scope of work. A list of these assumptions is provided below.

- Work can be completed during the normal business week, Monday through Friday, and normal business hours, 8 am to 5 pm.
- Laboratory samples will be analyzed using a standard turnaround time.
- Investigation derived waste, such as drill cuttings or purge water, produced from the investigation will be disposed of as a non-hazardous waste.
- Any out-of-scope work completed by KERAMIDA will be charged on a time-and-materials basis with prior written authorization from the Client.

If you have any questions or would like to discuss further this scope of work or costs, please call or email John Schilling ([jschilling@keramida.com](mailto:jschilling@keramida.com)) at your convenience. KERAMIDA appreciates the opportunity to provide environmental services to Spencer Coin Op Ventures and Drewry Simmons Vornehm.

Sincerely,  
KERAMIDA Inc.

  
John T. Schilling, LPG  
V.P Land Services

  
Brian Harrington  
Senior Vice President

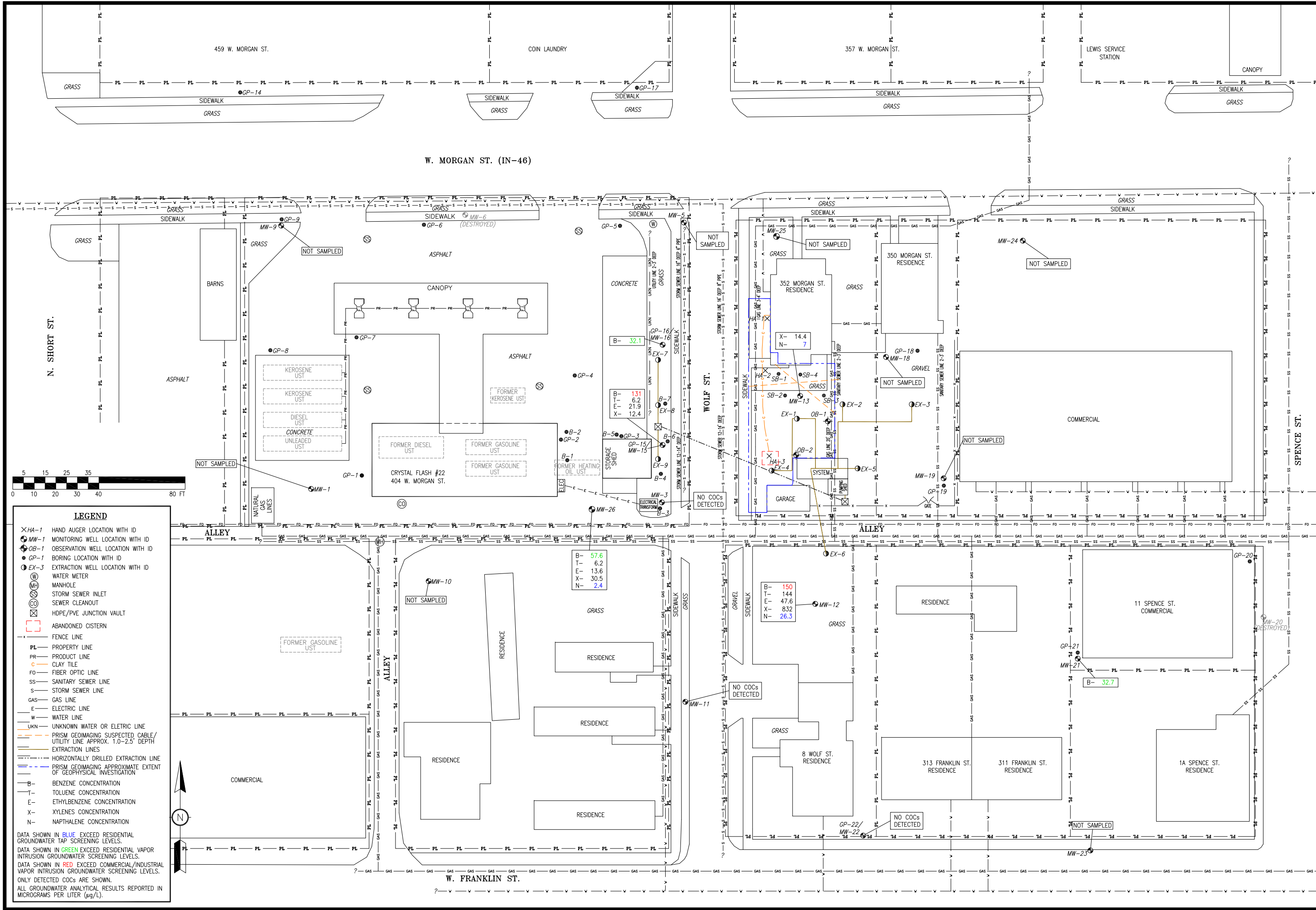
Enclosures

Figure 1 – Proposal Soil Boring/Monitoring Well Locations

G:\AUTOCAD\Testing\John Schilling Project



## **EXHIBIT “B”**



WILCOX PROJECT #  
331.10

SCALE  
1" = 40'

PROJECT MANAGER  
C. EKERLE

DATE  
11/8/18

FILE NUMBER  
33110004

FIGURE NUMBER  
4

FOURTH QUARTER 2018 MONITORING WELL LOCATIONS  
AND GROUNDWATER DATA

CRYSTAL FLASH #22  
404 WEST MORGAN ST. SPENCER, INDIANA

**WILCOX.**  
ENVIRONMENTAL ENGINEERING